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November 23, 2009

Mr. Michael Montemarano
5695 Main Street, Suite 201
Elkridge, MD 21075-5016

Re: Martin Appeal

Dear Michael:

Here is the latest update on the status of my Supreme Court case, *United States v. Comstock*, and its effect on my ability to work on the Dobie appeal..

After literally hundreds of hours of work, we have now written and filed our brief and have completed our shepherding of the amicus brief process. However, there remains a tremendous amount of work to be done on the case. We are still waiting on the government's reply brief which is due on November 28, 2009. This brief will almost certainly have a large impact on my oral argument preparations which are now in full swing.

We have been informed by the Supreme Court that the case will be argued on January 12, 2010. I will be the sole lawyer arguing the case for our side. As you are probably aware, preparation for a Supreme Court argument (especially if it is your first!) is essentially a full-time job. I had my first moot court at Duke University Law School last week. Shortly after Thanksgiving, I will travel to Chicago for a moot at Northwestern University. After New Years, I will travel to Washington D.C. for moots at Georgetown University and Covington and Burling, the law firm we are working with on this case. Though this may seem like overkill, every Supreme Court practitioner we have spoken to has assured us that this is level of preparation required to competently argue the case.

Of course, these preparations are somewhat complicated by the time of year. While my holiday travels will be minimal this year, the Thanksgiving, Christmas and New Year holidays definitely make it much more difficult to devote any significant amount of time to work other than *Comstock*.

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That being said, I am involved in at least four cases being argued in the Fourth Circuit during the December or January terms. While I will personally be arguing only one of these cases, *United States v. Fennell*, I am lead counsel in all four and will be required to spend a fair chunk of time prepping these cases for argument and assisting in mootings the lawyers who will argue them.

The bottom line is that I will not have any real time to work on Dobie's appeal until after my Supreme Court argument in January. That is the bad news. The good news is that after the argument, my calendar clears up considerably. While it certainly will not be easy, I think, based on the work I have previously done, if I plunge in immediately and get myself back up to speed, I can probably get you something ready for filing in Dobie by sometime in March.

Given all this, I think we need to seek one last extension from the Court. I know the request would be unusual but this is a highly unusual—unprecedented in my experience—situation trying to juggle this Supreme Court litigation with perhaps the most complex trial appeal I have ever handled. Moreover, this does not even begin to take into account the schedules and obligations of you and all the other lawyers involved in this appeal.

Look forward to hearing from you soon.

Sincerely,

THOMAS P. McNAMARA
Federal Public Defender

/s/ Alan DuBois

G. ALAN DuBOIS
Assistant Federal Public Defender